

Honorable Lonny R. Suko

Scott M. Ellerby
Mills Meyers Swartling
1000 Second Avenue, 30th Floor
Seattle, WA 98104-1064
Telephone: (206) 382-1000
sellerby@mms-seattle.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NATHAN CAMPTON,

Plaintiff,

v.

NCO FINANCIAL SYSTEMS, INC.,

Defendants.

NO. CV-09-12-LRS

NCO FINANCIAL SYSTEMS,
INC.'S ANSWER AND
AFFIRMATIVE DEFENSES

Now comes defendant, NCO Financial Systems, Inc. ("NCO"), by and through undersigned counsel, and for its answer to plaintiff's Complaint, states as follows:

I. NATURE OF ACTION

1. NCO admits that plaintiff purports to bring this action for alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*,

NCO FINANCIAL SYSTEMS, INC.'S ANSWER
AND AFFIRMATIVE DEFENSES - 1
(NO. CV 09-12-LRS)

LAW OFFICES OF
MILLS MEYERS SWARTLING
1000 SECOND AVENUE, 30TH FLOOR
SEATTLE, WASHINGTON 98104-1064
TELEPHONE (206) 382-1000
FACSIMILE (206) 386-7343

1 (“FDCPA”), the Revised Code of Washington, Chapter 19.16 and plaintiff’s
2 right to privacy, but denies any cause of action thereunder and denies any
3 wrongdoing or violations thereof.

4 **II. JURISDICTION**

5
6 2. NCO admits that the allegations in ¶ 2 solely for jurisdictional
7 purposes. The allegations in ¶ 2 are otherwise denied.

8 **III. PARTIES**

9
10 3. NCO denies the allegations in ¶ 3 for lack of sufficient information
11 to justify a belief therein.

12 4. NCO denies the allegations in ¶ 4 for lack of sufficient information
13 to justify a belief therein.

14 5. NCO denies the allegations in ¶ 5 for lack of sufficient information
15 to justify a belief therein.

16
17 6. NCO admits that it is a licensee as defined by
18 RCW § 19.16.100(9). NCO further admits that when it acts as a debt collector
19 as defined by 15 U.S.C. § 1692a(6), its debt collection activities may be
20 regulated by certain provisions of the FDCPA. Except as specifically admitted,
21 NCO denies the allegations in ¶ 6.
22
23

1 **IV. FACTUAL ALLEGATIONS**

2 7. NCO admits that its account records reflect NCO contacted
3 plaintiff in a lawful attempt to collect a debt. Except as specifically admitted,
4 NCO denies the allegations in ¶ 7.
5

6 8. NCO denies the allegations in ¶ 8.

7 9. NCO denies the allegations in ¶ 9.

8 **COUNT I: VIOLATION OF FAIR DEBT**
9 **COLLECTION PRACTICES ACT**

10 10. In response to ¶ 10, NCO hereby incorporates by reference its
11 responses contained in the above paragraphs as though set forth in full.
12

13 **PRAYER FOR RELIEF**

14 NCO denies that plaintiff is entitled to the relief sought under Count I.

15 **COUNT II: VIOLATION OF WASHINGTON COLLECTION**
16 **AGENCY ACT, WHICH IS A PER SE VIOLATION OF THE**
17 **WASHINGTON CONSUMER PROTECTION ACT**

18 11. In response to ¶ 11, NCO hereby incorporates by reference its
19 responses contained in the above paragraphs as though set forth in full.

20 **PRAYER FOR RELIEF**

21 NCO denies that plaintiff is entitled to the relief sought under Count II.

22 And now, in further Answer to the Complaint, NCO avers as follows:
23

1 **FIRST AFFIRMATIVE DEFENSE**

2 One or more of the counts contained in the Complaint fail to state a claim
3 against NCO upon which relief can be granted.

4 **SECOND AFFIRMATIVE DEFENSE**

5 Pursuant to 15 U.S.C. § 1692k(c), to the extent that a violation(s) is
6 established and in the event NCO is found to be a debt collector as defined in
7 the FDCPA, any such violation(s) was not intentional and resulted from a bona
8 fide error, notwithstanding the maintenance of procedures reasonably adapted
9 to avoid such error.
10

11 **THIRD AFFIRMATIVE DEFENSE**

12 Assuming that plaintiff suffered any damages, plaintiff has failed to
13 mitigate his damages or take other reasonable steps to avoid or reduce his
14 damages.
15

16 **FOURTH AFFIRMATIVE DEFENSE**

17 Any harm suffered by plaintiff was legally and proximately caused by
18 persons, individuals, corporations, or entities beyond the control or supervision
19 of NCO, or for whom NCO is not responsible or liable.
20

21 WHEREFORE, Defendant, NCO Financial Systems, Inc., respectfully
22 request that this answer be deemed good and sufficient, plaintiff's lawsuit be
23

24 NCO FINANCIAL SYSTEMS, INC.'S ANSWER
25 AND AFFIRMATIVE DEFENSES - 4
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1 dismissed, with prejudice, at plaintiff's costs, pursuant to Federal and State law,
2 plaintiff be ordered to pay reasonable attorney's fees and costs for NCO, and
3 for all other general and equitable relief.
4

5 Respectfully submitted this 23rd day of February, 2009.

6 MILLS MEYERS SWARTLING
7 Attorneys for Defendant
8

9 By: /s/Scott M. Ellerby
10 Scott M. Ellerby
11 WSBA No.: 16277
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24 NCO FINANCIAL SYSTEMS, INC.'S ANSWER
25 AND AFFIRMATIVE DEFENSES - 5
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CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2009, I electronically filed NCO FINANCIAL SYSTEMS, INC.'S ANSWER AND AFFIRMATIVE DEFENSES with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Jon N. Robbins jrobbins@AttorneysForConsumers.com

MILLS MEYERS SWARTLING
Attorneys for Defendant

By: /s/Scott M. Ellerby
Scott M. Ellerby, WSBA No. 16277

NCO FINANCIAL SYSTEMS, INC.'S ANSWER
AND AFFIRMATIVE DEFENSES - 6
(NO. CV 09-12-LRS)

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